

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:) Docket HWCA 2003/0333
)
David Alvarez)
dba Kern Oil Filter Recycling) ENFORCEMENT ORDER
974 Frontage Road)
McFarland, California 93250)
EPA ID No. CAL 000149101) Health and Safety
Code)
Respondent.) Section 25187
_____)

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to David Alvarez, dba Kern Oil Filter Recycling (Respondent).

1.2. Site. Respondent transports hazardous waste.

1.3. Transporter. The Department authorized Respondent to manage hazardous waste by hazardous waste transporter Registration Number 3468 issued on April 2, 2003.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule,

1 regulation, standard, or requirement issued or adopted
2 pursuant thereto.

3 1.5. Exhibits. All exhibits attached to this
4 Order are incorporated herein by this reference.

5 DETERMINATION OF VIOLATIONS

6 2. The Department has determined that:

7 2.1. The Respondent violated California Code of
8 Regulations, title 22, section 66265.173, subsection(a) in
9 that on or about July 8, 2003 the Respondent failed to keep
10 approximately 13 containers of hazardous waste and used oil
11 filters closed, except when it is necessary to add or remove
12 waste.

13 2.2. The Respondent violated California Code of
14 Regulations, title 22, section 66265.31 in that on or about
15 July 8, 2003 the Respondent failed to maintain and operate
16 its facility to minimize the possibility of a fire or any
17 unplanned sudden or non-sudden release of hazardous waste to
18 the soil which could threaten human health or the
19 environment.

20
21 SCHEDULE FOR COMPLIANCE

22 3. Respondent has corrected the violations cited
23 above. Respondent shall operate hereinafter in a manner that
24 shall prevent recurrences of the violations cited herein.

25
26 3.2. Submittals. All submittals from a Respondent
27 pursuant to this Order shall be sent to:

Robert Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local,

1 State, and federal requirements, including but not limited to
2 requirements to obtain permits and to assure worker safety.

3 3.6. Endangerment during Implementation: In the
4 event that the Department determines that any circumstances
5 or activity (whether or not pursued in compliance with this
6 Order) are creating an imminent or substantial endangerment
7 to the health or welfare of people on the site or in the
8 surrounding area or to the environment, the Department may
9 order Respondent to stop further implementation of this Order
10 for such period of time as needed to abate the endangerment.
11 Any deadline in this Order directly affected by a Stop Work
12 Order under this section shall be extended for the term of
13 the Stop Work Order.

14 3.7. Liability: Nothing in this Order shall
15 constitute or be construed as a satisfaction or release from
16 liability for any conditions or claims arising as a result of
17 past, current, or future operations of Respondent.
18 Notwithstanding compliance with the terms of this Order,
19 Respondent may be required to take further actions as are
20 necessary to protect public health or welfare or the
21 environment.

22 3.8. Site Access: Access to the site shall be
23 provided at all reasonable times to employees, contractors,
24 and consultants of the Department, and any agency having
25 jurisdiction. Nothing in this Order is intended to limit in
26 any way the right of entry or inspection that any agency may
27 otherwise have by operation of any law. The Department and
28

1 its authorized representatives shall have the authority to
2 enter and move freely about all property at the Site at all
3 reasonable times for purposes including but not limited to:
4 inspecting records, operating logs, and contracts relating to
5 the Site; reviewing the progress of Respondent in carrying
6 out the terms of this Order; and conducting such tests as the
7 Department may deem necessary. Respondent shall permit such
8 persons to inspect and copy all records, documents, and other
9 writings, including all sampling and monitoring data, in any
10 way pertaining to work undertaken pursuant to this Order.

11 3.9. Data and Document Availability. Respondent
12 shall permit the Department and its authorized
13 representatives to inspect and copy all sampling, testing,
14 monitoring, and other data generated by Respondent or on
15 Respondent's behalf in any way pertaining to work undertaken
16 pursuant to this Order. Respondent shall allow the
17 Department and its authorized representatives to take
18 duplicates of any samples collected by Respondent pursuant to
19 this Order. Respondent shall maintain a central depository
20 of the data, reports, and other documents prepared pursuant
21 to this Order. All such data, reports, and other documents
22 shall be preserved by Respondent for a minimum of six years
23 after the conclusion of all activities under this Order. If
24 the Department requests that some or all of these documents
25 be preserved for a longer period of time, Respondent shall
26 either comply with that request, deliver the documents to the
27 Department, or permit the Department to copy the documents

1 prior to destruction. Respondent shall notify the Department
2 in writing at least six months prior to destroying any
3 documents prepared pursuant to this Order.

4 3.10. Government Liabilities: The State of
5 California shall not be liable for injuries or damages to
6 persons or property resulting from acts or omissions by
7 Respondent or related parties in carrying out activities
8 pursuant to this Order, nor shall the State of California be
9 held as a party to any contract entered into by Respondent or
10 its agents in carrying out activities pursuant to the Order.

11 3.11. Incorporation of Plans and Reports. All
12 plans, schedules, and reports that require Department
13 approval and are submitted by Respondent pursuant to this
14 Order are incorporated in this Order upon approval by the
15 Department.

16 3.12. Extension Request: If Respondent is unable
17 to perform any activity or submit any document within the
18 time required under this Order, the Respondent may, prior to
19 expiration of the time, request an extension of time in
20 writing. The extension request shall include a justification
21 for the delay.

22 3.13. Extension Approvals: If the Department
23 determines that good cause exists for an extension, it will
24 grant the request and specify in writing a new compliance
25 schedule.

26 OTHER PROVISIONS
27
28

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty at \$14,000. Payment is due within 30 days from the effective date of the Order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment to:

1 Department of Toxic Substances Control
2 Accounting Office
3 1001 I Street, 21st floor
4 P. O. Box 806
5 Sacramento, California 95812-0806

6 A photocopy of the check shall be sent to:

7 Robert Kou, Unit Chief
8 Statewide Compliance Division
9 Department of Toxic Substances Control
10 1011 North Grandview Avenue
11 Glendale, California 91201

12 RIGHT TO A HEARING

13 6. Respondent may request a hearing to challenge
14 the Order. Appeal procedures are described in the attached
15 Statement to Respondent.

16 EFFECTIVE DATE

17 7. This Order is final and effective twenty days
18 from the date of mailing, which is the date of the cover
19 letter transmitting the Order to Respondent, unless
20 Respondent requests a hearing within the twenty-day period.

21 Date of Issuance: 1/12/2004

22 ORIGINAL SIGNED BY ROBERT KOU

23 Robert Kou, Unit Chief
24 Statewide Compliance Division
25 Department of Toxic Substances
26 Control